

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROY KEENAN,

Plaintiff,

v.

BNSF RAILWAY COMPANY, a  
Delaware corporation,

Defendant.

CASE NO. C07-130BHS

ORDER DENYING WITHOUT  
PREJUDICE PLAINTIFF'S  
MOTION FOR RULE 16  
SCHEDULING CONFERENCE

This matter comes before the Court on Plaintiff's Motion for Rule 16 Scheduling Conference (Dkt. 34). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion without prejudice for the reasons stated herein.

**I. BACKGROUND AND DISCUSSION**

Plaintiff moves for a scheduling conference, pursuant to Federal Rule of Civil Procedure 16, "to determine whether discovery should be stayed or whether th[is] case should be transferred to the Eastern District until discovery is complete." Dkt. 34 at 1. Plaintiff contends that there are several pending discovery issues in *Best v. BNSF Railway Co.*, No. 06-0172 (E.D. Wash.), that bear directly on discovery in this matter.

BNSF opposes the request, contending that Plaintiff fails to demonstrate good cause in light of this Court's recent extension of the discovery deadline (Dkt. 42), that a

1 motion for summary judgment is currently pending in *Best* and may render the instant  
2 motion moot, that *Best* is factually dissimilar from the instant matter, and that Plaintiff is  
3 attempting to forum shop. Dkt. 41. Plaintiff did not reply to BNSF's response.

4 It appears that the parties agree that "some general discovery may be appropriate  
5 for both claims because they both involve noise induced hearing loss (NIHL) and involve  
6 the BNSF's hearing conservation program." Dkt. 41 at 5 (BNSF's response).

7 While the Court is sympathetic to the desire to avoid duplicative and redundant  
8 discovery in this matter and in *Best*, Plaintiff fails to articulate his proposal to transfer this  
9 case to the Eastern District of Washington or to justify a stay of all discovery in this  
10 matter. The Court therefore declines to hold a scheduling conference without prejudice to  
11 a future request for such relief.

## 12 II. ORDER

13 Therefore, it is hereby

14 **ORDERED** that Plaintiff's Motion for Rule 16 Scheduling Conference (Dkt. 34)  
15 is **DENIED** without prejudice.

16 DATED this 31<sup>st</sup> day of April, 2008.

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20 BENJAMIN H. SETTLE  
21 United States District Judge  
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